

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF KANSAS

DAVID SCHWIND,)	
)	
Plaintiff,)	
)	
v.)	Case No. 08-1281-WEB
)	
MICHAEL J. ASTRUE,)	
Commissioner of)	
Social Security,)	
)	
Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATIONS

Now before the court is the review of the final decision of the Commissioner of Social Security denying David Schwind disability insurance benefits. The matter was referred to the Magistrate Judge for a recommendation and report pursuant to Rule 72 (b), Federal Rules of Civil Procedure. The Recommendation and Report was filed on August 26, 2009. Neither party filed an objection to the Report.

The Magistrate Judge recommends this case should be reversed, and the case remanded for further hearing. On remand, the Administrative Law Judge (ALJ) should review and discuss the residual function capacity, as set out in SSR 96-8p. The ALJ must include a narrative discussion, citing to evidence in the record. The ALJ must review medical and nonmedical evidence in making a RFC assessment. Furthermore, the ALJ is directed to give consideration to the evidence regarding the plaintiff's residual functional capacity, and "include a narrative discussion describing how the evidence supports each conclusion, citing specific medical facts..and nonmedical evidence." SSR 96-8p. The ALJ should discuss the limitations of the Plaintiff, and the specific nature of the limitations.

Therefore it is ORDERED that the Recommendation and Report (Doc. 18) be adopted by the Court.

It is further ORDERED that the decision of the Commissioner be REVERSED and the matter be REMANDED pursuant to sentence four of 42 U.S.C. § 405(g) for further development in accordance with the standards set out in the Recommendation and Report.

The Clerk of the Court is directed to enter Judgment accordingly.

SO ORDERED this 10th day of November, 2009.

s/ Wesley E. Brown
Wesley E. Brown
U.S. Senior District Judge